

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Review of the 2003 Annual
Automatic Adjustment of Charges for All Gas
and Electric Utilities

ISSUE DATE: August 10, 2004

DOCKET NO. G,E-999/AA-03-1264

ORDER ACTING ON GAS UTILITIES' 2003
ANNUAL AUTOMATIC ADJUSTMENT
REPORTS AND SETTING FURTHER
REQUIREMENTS

PROCEDURAL HISTORY

I. Introduction

Under Minn. Stat. § 216B.16, subd. 7 and Minn. Rules 7825.2390 through 7825.2920, rate-regulated gas and electric utilities may adjust their rates between general rate cases to reflect fluctuations in the prices they pay for gas or electricity purchased for delivery to ratepayers, or for fuel purchased to generate electricity for ratepayers. These adjustments are called automatic adjustments, since they normally take effect without prior Commission approval.

The rules require utilities to make detailed filings supporting each automatic adjustment. They also require utilities to make comprehensive annual filings reporting on all automatic adjustments made during the twelve-month period between July 1 of the previous year and June 30 of the reporting year.

On June 17, 2004, the Commission issued an Order in this case accepting the electric utilities' 2003 annual reports. The Commission deferred action on the gas utilities' 2003 reports because they raised issues meriting separate consideration. On July 29, 2004, those reports came before the Commission.

II. The Parties

The seven natural gas utilities listed below were required to file, and did file, annual automatic adjustment reports for the 2002-2003 reporting year.

- Great Plains Natural Gas Company (Great Plains)
- Interstate Power Company - Gas Utility (Interstate)
- Aquila Networks-NMU (NMU)
- Aquila Networks-PNG (Peoples-MN)
- CenterPoint Energy Minnegasco (Minnegasco)
- Northern States Power Company d/b/a Xcel Energy - Gas Utility (Xcel)
- Greater Minnesota Gas, Inc. (Greater Minnesota Gas)

The Department of Commerce (the Department) examined the companies' filings in detail and filed both company-specific and broad-based policy comments and recommendations. Several companies revised or supplemented their filings based on the Department's comments, and the Department revised and supplemented its recommendations based on the companies' supplemental filings. All but one contested issue had been resolved by the time the filings came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Filing Requirements

The automatic adjustment rules require that each annual report include at least the information set forth below.

Minn. Rules 7825.2800

- The utility's procurement policies.
- A summary of actions taken to minimize costs, including conservation actions.

Minn. Rules 7825.2810

- Detailed information on all automatic adjustments made during each month of the reporting year for each customer class.
- Total cost of fuel, or total cost of gas delivered to customers, during the reporting year.
- Total revenues collected from customers for energy delivered.
- Detailed information on all billing adjustments, supplier refunds, and any refunds credited to customers.
- A list of all Purchased Gas Adjustment rule variances requested or in effect during the reporting year, together with an explanation of why they were necessary.
- A list of changes in contract demand which occurred during the reporting year and the reasons for those changes.
- Disclosure of the levels of customer-owned gas volumes delivered through the utility's distribution system under retail transportation tariffs during the reporting year.
- An explanation of deviations between gas cost recovery and actual gas costs during the reporting year.

Minn. Rules 7825.2820

- An independent auditor's report evaluating the utility's accounting for automatic adjustments for the reporting year.

Minn. Rules 7825.2830

- For electric utilities, a five-year projection of fuel costs by energy source.
- For gas utilities, a brief statement of the utility's opinion on the impact of market forces on gas costs for the coming year.

Minn. Rules 7825.2700, subp. 7 and 7825.2910, subp. 4

- A plan to true-up, over the course of the next twelve months, discrepancies between gas costs actually incurred for each customer class and revenues collected from each customer class.

II. The Issues

There are four main areas of concern in reviewing gas utilities' annual automatic adjustment filings: (1) the utility's formal compliance with rule requirements; (2) the accuracy and integrity of the utility's accounting practices; (3) the utility's success in matching gas costs to billing factors, limiting costly over- and under-recoveries requiring true-up; and (4) the prudence and reasonableness of the utility's gas procurement policies and practices.

The Department performed an in-depth review of each utility's filing, conducted follow-up discovery, and worked with each utility to fully develop the issues and fully explore the potential for improving future filings. By the end of this process nearly all issues had been resolved. Some were resolved by revised or supplemental filings and some by clarifying discussion. Only one set of issues – those involving the regulatory treatment of the permanent capacity release associated with Aquila, Inc.'s sale of its shipper services operations – remained unresolved.

The Department's final recommendation was to approve all annual filings as to form and to approve the annual filings and proposed true-ups of all utilities except the two Aquila operating divisions (Peoples-MN and NMU), with specific clarifications, conditions, and future filing requirements set forth in the Department's comments.

As to the Aquila companies, the Department recommended assessing interest at the companies' authorized, overall rate of return on Minnesota-jurisdictional revenues from the permanent capacity release associated with the sale and transfer of Aquila's shipper services. The Department ultimately concluded that it could not determine the precise amount of those revenues without further discovery or discussions with the companies.

None of the parties opposed the Department's recommendations regarding the non-Aquila companies. The Aquila companies, Peoples-MN and NMU, opposed any assessment of interest on the capacity release revenues refunded through the following year's annual true-up, arguing that their treatment of those revenues had been appropriate. In the alternative, they argued that any interest assessed should be assessed at the prime rate and not at their authorized overall rate of return.

Both companies agreed to work with the Department to determine the amount of the revenues at issue. And the companies concurred in the remainder of the Department's recommendations.

III. Commission Action

A. Non-Aquila Companies

The Commission concurs with the Department that all gas utilities except Peoples-MN and NMU have demonstrated substantive compliance with the automatic adjustment statute, the automatic adjustment rules, and related Commission Orders. The Commission will accept and approve their filings, approve their true-up proposals, and accept and adopt the utility-specific conditions and requirements recommended by the Department.

B. The Aquila Companies

1. Factual Background and Parties' Positions

In November 2002, Aquila, Inc., parent company of Peoples-MN and NMU, sold its unregulated shipper services business to Cornerstone Energy, Inc. As part of that transaction, it released to Cornerstone significant amounts of firm pipeline capacity, which it had formerly used to support its shipper services business.

Northern Natural Gas Company immediately began crediting Aquila on a monthly basis with the price of the released pipeline capacity and related system balancing services. Aquila, however, kept collecting the price of the released capacity and related system balancing services from ratepayers through the purchased gas adjustment until September 2003, when it began refunding these revenues over the normal twelve-month true-up period.

The Department contended that Aquila should have treated this permanent capacity release as an event outside the normal workings of the automatic adjustment process and stopped charging ratepayers for the lost capacity and related balancing services immediately. To transfer to ratepayers the monetary benefit the company received from this delay, the Department recommended assessing interest on the average monthly balance of the unrefunded revenues at the overall rate of return authorized in the Company's last rate case, 9.934%.

The Company contended that it had treated this capacity release properly, since it had treated it in the same manner as any other capacity release. In the alternative, the Company argued that even if it had had an obligation to treat this capacity release differently, its failure to do so was unintentional and that any interest assessed should not exceed the prime rate.

Finally, the Company and the Department did not agree on the amount of revenue at issue, with the Department stating that it needed further information. The Company and the Department agreed to work together to establish the amount of revenue attributable to the permanent capacity release and related system balancing services; the Company agreed to respond to the Department's comments of July 16, 2004, which questioned the revenue figures, within 15 days of the date of the hearing.

2. Commission Action

The Commission concurs with the Department that Aquila's capacity release to Cornerstone was very different from the routine capacity releases that normally flow through the automatic adjustment process. Most capacity releases are short-term and recallable if the releaser unexpectedly needs the released capacity to serve its ratepayers. These conditions, of course, render the price of capacity releases relatively low and therefore appropriate for refunding through the automatic adjustment.

The capacity release to Cornerstone, on the other hand, had none of these characteristics. It was permanent, it was irrevocable, and it rendered the released capacity totally unavailable to serve Aquila's ratepayers. And because it was unconditional, it brought a significantly higher price than the routine capacity releases that pass through the automatic rate adjustment.

Further, while the Company immediately realized significant and permanent reductions in its gas costs, it delayed reducing customers' gas costs for ten months, and it then spread those reductions over a twelve-month true-up period.

The Commission concurs with the Department that the Company should have recognized that this capacity release fell outside the workaday scope of the purchased gas adjustment. The purchased gas adjustment is a tool designed to permit utilities to pass through to customers normal fluctuations in the cost of gas. It is not designed to permit utilities to pass through to customers cost changes associated with permanent and fundamental changes in the makeup of their pipeline entitlements. Those changes are addressed in demand entitlement proceedings, which permit utilities to immediately implement, pending full regulatory review, changes in their entitlement to pipeline capacity and the rate impacts of those changes.¹

For all these reasons, the Commission concurs with the Department that it was improper for the Company to use the purchased gas adjustment to continue charging ratepayers for capacity that was no longer available, under any scenario, to serve them.

¹ Minn. Rules 7825.2910, subp. 2; 7825.2920.

The Commission also concurs with the Department that Aquila should refund to ratepayers the full benefit it derived from its delay in passing through these cost savings and that the most accurate measure of that benefit is its authorized overall rate of return. The prime rate, which the rules prescribe for refundable amounts erroneously retained by utilities, does not apply here, both because the Company's failure to make the refund was not erroneous, but intentional, and because the prime rate does not capture the full benefit the Company derived from retaining these revenues.

Finally, the willingness of the Company and the Department to work together to determine the amount of revenue at issue is gratifying, and the Commission anticipates that issue's prompt resolution in the Aquila companies' individual 2003 annual automatic adjustment dockets.

ORDER

All Gas Companies

1. The Commission hereby accepts the fiscal year 2003 annual automatic adjustment reports as filed, and subsequently amended, by the gas utilities as being complete as to Minnesota Rules, parts 7825.2390 through 7825.2920.
2. All gas utilities shall meet with their independent external auditors prior to the auditors' examinations concerning the companies' annual automatic adjustment reports which are to be filed September 1, 2004, to review audit procedures and Minn. Rules, part 7825.2820.
3. All gas utilities shall provide a specific justification for each piece of information for which the designation of trade secret is claimed in their annual reports and true-up filings. All companies shall limit the designation of trade secret to words, numbers, or phrases that are actually trade secret and not designate entire paragraphs or pages which contain the trade secret words, numbers, or phrases.
4. The Commission asks the Department of Commerce to include the same Commission-requested information in its fiscal year 2004 report as was included in the fiscal year 2003 report.
5. The Commission asks the Department of Commerce to continue its investigation of the amount of pipeline capacity release revenue the local distribution companies receive from the pipeline and the amount of revenue the local distribution companies refund to their customers.
6. The Commission asks the Department of Commerce to review how well each local distribution company is handling the changes in the method Northern Natural uses to resolve monthly imbalances, the impact these changes have had on each utility's monthly PGA and true-up, and how each local distribution company is using (or plans to use) Northern's imbalance to storage option for resolving monthly imbalances.

Greater Minnesota Gas, Inc.

7. Greater Minnesota Gas's annual true-up filing, docket no. G-022/AA-03-1512, is hereby accepted and approved.
8. Greater Minnesota Gas is encouraged to identify and respond in its next annual automatic adjustment report to the Department's concerns about any future plans to incorporate storage gas as a tool in mitigating future potential high gas costs for its customers.
9. Greater Minnesota Gas is encouraged to implement procedures for regulatory purposes that will assist the Company in the future to verify the accuracy of any and all information prior to its submission to state agencies.
10. The Commission grants Greater Minnesota Gas a variance to the Annual Auditor's Report rule (Minn. Rule, part 7825.2820) for fiscal year 2003.

Great Plains Natural Gas Company

11. Great Plains' annual true-up filing, for its Northern and Southern system, docket no. G-004/AA-03-1423, is accepted; Great Plains is authorized to implement its true-up as shown in Attachment G6 of the Department of Commerce's February 27, 2004 report.
12. Great Plains shall recalculate its Canadian dollar denominated Brokered Reservation Charges based on the U.S./Canadian currency exchange rate on a quarterly basis or more frequently if there are significant changes in the exchange rate.

Interstate Power

13. Interstate's annual gas true-up filing, docket no. G-001/AA-03-1406, is hereby accepted, and Interstate is authorized to implement its annual true-up, as shown in Department Attachment G7 of the Department of Commerce's February 27, 2004 report.

CenterPoint Energy Minnegasco

14. Minnegasco-Northern's annual true-up filing, docket no. G-008/AA-03-1377, is hereby accepted and Minnegasco-Northern is authorized to implement its true-up, as shown in Attachment G10 to the Department of Commerce's February 27, 2004 report.
15. Minnegasco-Viking's annual true-up filing, docket no. G-008/AA-03-1378, is hereby accepted.
16. Minnegasco is encouraged to identify and respond in its next annual automatic adjustment report to the Department of Commerce's concerns about any future plans for incorporating storage gas as a tool in mitigating future potential high gas costs for its Viking rate area served by the Viking Gas Transmission pipeline.

Northern States Power Company d/b/a Xcel Energy'

17. Xcel's annual true-up filing, docket no. G-002/AA-03-1408, as corrected and twice revised, is accepted.
18. Xcel shall make a prior period adjustment to its 2003-2004 true-up (to be filed September 1, 2004) to reflect an adjustment for a \$39,120 overstatement of 2002-2003 commodity and peaking costs allocated to Minnesota general system customers in the second true-up Xcel filed on April 15, 2004.
19. The Commission on its own motion varies the true-up filing rule (Minn. Rule, part 7825.2910, subpart 4) to allow Xcel to implement corrected 2002-2003 true-up factors as of January 1, 2004.

Aquila Networks-Peoples (MN)

20. Peoples-MN shall reduce the firm ratepayers' demand costs by \$2,684 in its next true up due September 1, 2004.
21. Peoples-MN (including Peoples-MN Northern, Peoples-MN Great Lakes, and Peoples-MN Viking) shall continue to report in its true-up filings the over- and under-recovery by individual demand- and commodity-cost components (Peoples-MN's Schedules D3), and to provide explanations for discrepancies on a component basis for each of its three systems.
22. Peoples-MN shall separately list on future Schedule D3s, its capacity releases and DDVC costs.
23. Aquila shall respond to the July 16, 2004 response comments of the Department of Commerce on or before August 13, 2004.
24. Peoples-MN shall pay interest at the rate of 9.934% (its authorized weighted average cost of capital from its 2000 rate) on the average monthly balance of the pipeline capacity permanently released in connection with the sale of its shipper services business, together with related system balancing agreement costs.
25. Peoples-MN shall file a refund report within 10 days after the refund is completed.

Aquila Networks-NMU

26. NMU shall separately list on future Schedule D3s, its capacity releases and DDVC costs.
27. Aquila shall respond to the July 16, 2004 response comments of the Department of Commerce on or before August 13, 2004.

28. NMU shall pay interest at the rate of 9.934% (its authorized weighted average cost of capital from its 2000 rate) on the average monthly balance of the pipeline capacity permanently released in connection with the sale of its shipper services business, together with related system balancing agreement costs.
29. NMU shall file a refund report within 10 days after the refund is completed.
30. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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